

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 7394**

**BILL NUMBER:** HB 1497

**NOTE PREPARED:** Jan 16, 2013

**BILL AMENDED:**

**SUBJECT:** Sewer Connections.

**FIRST AUTHOR:** Rep. Zent

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** *Connecting to Sewer Systems:* This bill includes a utility held in trust by a consolidated city in the definition of "not-for-profit" utility for purposes of exemptions from mandatory sewer connection. It amends requirements for a not-for-profit sewer utility, a regional sewage district, and a municipally owned sewer utility to require a property owner to discontinue use of a sewage disposal system and connect to a sewer system. It permits a property owner who connects to a sewer system to provide labor and materials to accomplish the connection. It provides that a sewer system is considered to benefit only property actually connected to the sewer system. The bill also provides that, after June 30, 2013, a municipality may not require property outside its corporate boundaries to connect to its sewer system.

*Notice Requirements:* The bill provides that notice requirements for certain construction permit applications apply to sewer and water system construction. (Current law exempts sewer and water system construction permit applications from the notice requirements.)

*Elected Trustees:* The bill requires that a majority of the trustees of the board of trustees of a regional sewer district must be elected. It provides for the transition from an appointed to an elected board.

*Petition to Establish a District:* The bill requires that a petition to establish a district must be signed by a majority of the owners of property to be served by the district.

*Rate Charges:* The bill provides that a board may not bill at a flat rate or impose a minimum charge on a campground or youth camp.

*Authority to Foreclose Liens:* The bill repeals authority for a district to foreclose liens.

*Collection through Civil Actions:* The bill provides that a district may collect unpaid rates and charges through a civil action.

*Penalties:* The bill provides that a person who provides false information to a health officer commits a Class C misdemeanor. (Under current law, the offense is a Class C infraction.) The bill provides that a person who gives a false report related to sewage disposal systems and sewer connections commits false informing, a Class B misdemeanor.

**Effective Date:** July 1, 2013.

**Explanation of State Expenditures:** (Revised) *Elected Trustees:* The bill provides that orders to establish regional sewer districts after June 30, 2013, must provide for the election of board members. Depending on the extent that district orders occur after this date, expenses for the Indiana Department of Environmental Management (IDEM) could increase to oversee the election of board members. Currently, IDEM only oversees three district elections of board members.

**Explanation of State Revenues:** *Penalties:* There are no data available to indicate how many people are judged to have provided false information to a health officer, a Class C infraction, who instead would be convicted of a Class C misdemeanor under the bill. Nor are there data available to indicate how many more offenders may be convicted of false informing, a Class B misdemeanor, if filing a false report related to sewage disposal systems and sewer connections is added to the elements of the crime.

By enhancing the penalty for providing false information to a health officer, the bill potentially increases revenue to the Common School Fund, but could reduce revenue that is deposited in the state General Fund. This is because fines from misdemeanors are deposited in the Common School Fund, while infraction judgements are deposited in the state General Fund.

Currently, the maximum judgment for a Class C infraction is \$500, which is deposited into the state General Fund, while the maximum fine for a Class C misdemeanor is \$500, which is deposited into the Common School Fund. The maximum fine for a Class B misdemeanor is \$1,000, which also is deposited into the Common School Fund.

If the case is filed in a circuit or superior court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the automated record keeping fee (\$5), judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$2) are deposited into the state General Fund.

**Explanation of Local Expenditures:** *Elected Trustees:* County election officials would need to add the names of the trustee members to the ballot. There would be a minimal increase in ballot printing costs in counties with optical scan voting systems. Counties with direct recording electronic voting systems would be able to input the office into the system without additional expense.

*Authority to Foreclose Liens and Collection through Civil Actions:* Attaching a lien to a property allows, in

certain circumstance, for the unit to collect delinquent amounts when the property is sold or force the property to be sold to satisfy amounts owing. Under the bill, the ability for a regional water, sewer, or solid waste district to attach a lien is removed. Instead a civil action may be brought in the name of the State of Indiana on the relation to the district. As a result the civil action, the district would have a judgement to collect. Attorney's fees in either case may be collected if the district is successful in its action.

*Penalties:* Local expenditures could increase if offenders are incarcerated in local jails instead of being only fined. A Class B misdemeanor is punishable by up to 180 days in jail and a Class C misdemeanor is punishable by up to 60 days in jail. The average daily cost of housing an offender in jail is reported to be \$44. There is no term of imprisonment for an infraction.

**Explanation of Local Revenues:** *Connecting to Sewer Systems:* This bill provides that a district may not require property owners to connect to and may allow them to disconnect from a sewer system under certain conditions. These provisions could decrease the number of property owners who connect to a sewer system, which would reduce the amount of revenue generated for the sewer district. The impact will depend upon the number of property owners who would qualify.

*Rate Charges:* Adjusting or changing rates would have an impact on the amount of revenue generated for the district. The impact will depend on local circumstances and action.

*Penalties:* Local governments could receive additional revenues from any court fees that are collected for cases that were infractions and are now misdemeanors. Twenty-seven percent of criminal costs fees that are collected are deposited in the county general fund when a guilty verdict is entered for a misdemeanor. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. From city and town courts, the county general fund receives 20% of the criminal costs fee while the city or town general fund receives 25%. Persons found guilty of a felony or misdemeanor are also required to pay the document storage fee (\$2), which is deposited into the clerk record perpetuation fund, and the jury fee (\$2) and the law enforcement continuing education fee (\$4), which are both deposited in the county user fee fund.

**State Agencies Affected:** Department of Correction; Indiana Department of Environmental Management.

**Local Agencies Affected:** Counties; regional sewer, water and solid waste districts, trial courts; local law enforcement agencies.

**Information Sources:** Indiana Sheriffs' Association; Brad Baughn, IDEM, 317-234-3386.

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